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AMENDED IN SENATE JULY 1, 2009

AMENDED IN SENATE JUNE 10, 2009

AMENDED IN ASSEMBLY APRIL 28, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1531

Introduced by Assembly Member Portantino

February 27, 2009

An act to amend Section ~~13314~~ 14310 of, and to add Article 6 (commencing with Section 14320) to Chapter 3 of Division 14 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 1531, as amended, Portantino. Elections: voter ~~challenges~~ registration.

Existing law prohibits a person from registering to vote except by affidavit of registration and requires that the affidavit be received by the county elections official no later than 15 days prior to the election, with specified exceptions. Under existing law, a person registered as a voter in any precinct in the state who moves from the district within 14 days prior to election day is, for the purpose of that election, entitled to vote in the precinct from which the person moved until the close of the polls on election day.

This bill would authorize a person who qualifies to vote in the state to register or reregister at the office of the local elections official commencing 14 days prior to election day and continuing through election day or at the person's precinct on election day. A person who

registers to vote prior to election day and provides proof of current residence would be permitted to cast a vote by mail ballot. A person who registers to vote on election day would be permitted to cast a provisional ballot.

The bill would also require local elections officials to compile a list or index of voters who registered or reregistered to vote pursuant to these provisions and to conduct a review no later than 30 days after the canvass of the votes for the election. By increasing the duties of local elections officials, the bill would impose a state-mandated local program.

The bill also would make conforming changes to provisions relating to provisional ballots.

The bill would make its provisions operative on January 1, 2012.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law allows an elector to seek a writ of mandate alleging that an error or omission has occurred, or is about to occur, in the placing of a name on, or in the printing of, a ballot, sample ballot, voter pamphlet, or other official matter, or that any neglect of duty has occurred, or is about to occur. Existing law provides that venue for these proceedings is in the County of Sacramento when the Secretary of State is named a real party in interest.~~

~~This bill would require that the Secretary of State be named as a respondent or real party in interest in any proceeding under the above provisions concerning a statewide measure or candidates for specified offices.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14310 of the Elections Code is amended
2 to read:

14310. (a) ~~At all elections~~ *an election*, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

(1) An elections official shall advise the voter of the voter's right to cast a provisional ballot.

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).

(3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. ~~All A provisional ballots voted~~ *ballot cast* shall remain sealed in ~~their envelopes~~ *its envelope* for return to the elections official in accordance with the elections official's instructions. The provisional ballot ~~envelopes~~ *envelope* specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the ~~envelopes~~ *envelope* used for *a* vote by mail ~~ballots~~ *ballot*, and shall be completed in the same manner as *a* vote by mail ~~envelopes~~ *envelope*.

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of ~~signatures~~ *the signature* on *a* vote by mail ~~ballots~~ *ballot*, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

(2) ~~Provisional ballots~~ *(A) A provisional ballot* shall not be included in any semiofficial or official canvass, except ~~upon: (A)~~ *the under the following circumstances:*

1 (i) ~~The elections official's establishing official~~ establishes prior
2 to the completion of the official canvass, from the records in his
3 or her office, the claimant's right to vote; ~~or (B).~~

4 (ii) *The votes have properly cast pursuant to Article 6*
5 *(commencing with Section 14320).*

6 (iii) *Upon the order of a superior court in the county of the*
7 *voter's residence.* ~~A~~

8 (B) A voter may seek the court order specified in ~~this~~ paragraph
9 (A) regarding his or her own ballot at any time prior to completion
10 of the official canvass. ~~Any~~ A judicial action or appeal brought
11 *pursuant to this paragraph* shall have priority over all other civil
12 matters. ~~No~~ A fee shall *not* be charged to the claimant by the clerk
13 of the court for services rendered in an action under this section.

14 (3) The provisional ballot of a voter who is otherwise entitled
15 to vote shall not be rejected because the voter did not cast his or
16 her ballot in the precinct to which he or she was assigned by the
17 elections official.

18 (A) If the ballot cast by the voter contains the same candidates
19 and measures on which the voter would have been entitled to vote
20 in his or her assigned precinct, the elections official shall count
21 the votes for the entire ballot.

22 (B) If the ballot cast by the voter contains candidates or
23 measures on which the voter would not have been entitled to vote
24 in his or her assigned precinct, the elections official shall count
25 only the votes for the candidates and measures on which the voter
26 was entitled to vote in his or her assigned precinct.

27 (d) The Secretary of State shall establish a free access system
28 that ~~any~~ a voter who casts a provisional ballot may access to
29 discover whether the voter's provisional ballot was counted and,
30 if not, the reason why it was not counted.

31 (e) The Secretary of State may adopt appropriate regulations
32 for purposes of ensuring the uniform application of this section.

33 (f) This section shall apply to any vote by mail voter described
34 by Section 3015 who is unable to surrender his or her unvoted vote
35 by mail voter's ballot.

36 (g) Any existing supply of envelopes marked "special challenged
37 ballot" may be used until the supply is exhausted.

38 *SEC. 2. Article 6 (commencing with Section 14320) is added*
39 *to Chapter 3 of Division 14 of the Elections Code, to read:*

Article 6. *Election Day Voter Registration Act*

14320. (a) *Notwithstanding Section 2102, an elector who qualifies to vote under this code and Section 2 of Article II of the California Constitution may register or reregister to vote as follows:*

(1) *At the office of his or her local elections official commencing on the 14th day prior to the election and continuing through election day.*

(2) *At his or her precinct on election day.*

(b) *The elections official shall send the voter notification form required by Section 2155 within 15 days after the date of the election to a person who is properly registered or reregistered to vote pursuant to this section, and the voter shall be registered for future elections at the address for which the voter is so registered or reregistered.*

14321. (a) *An elector who registers or reregisters to vote pursuant to Section 14320 prior to election day, upon showing proof of current residence, shall be furnished a vote by mail ballot. The elector may cast the ballot as provided by Section 3018.*

(b) *An elector who registers or reregisters to vote pursuant to Section 14320 on election day may cast a provisional ballot pursuant to Section 14310. A provisional ballot cast pursuant to this section shall be placed in an envelope distinguishable from other provisional ballot envelopes and shall not be included in a semiofficial or official canvass until the voter's right to vote is established.*

14322. *An elections officials shall mail a nonforwardable residency confirmation postcard within 10 days of an election to a voter who registers or reregisters to vote pursuant to Section 14320 but who is unable to show proof of current residence. The postcard shall be substantially similar in form to the postcard mailed pursuant to Section 2220. If the postcard mailed pursuant to this section is returned as undeliverable within 10 days of mailing to the elections official by the post office, a provisional ballot cast pursuant to subdivision (c) of Section 14321 shall not be counted and registration or reregistration shall be canceled. If the postcard is not returned within that 10-day period by the post office, the provisional ballot shall be included in the canvass.*

1 14323. *The elections official shall compile a list or index of*
2 *voters who registered or reregistered to vote pursuant to this*
3 *article. Not later than 30 days after the official canvass for the*
4 *election, the elections official shall conduct a review of the names*
5 *on the list or index and shall cancel any duplicate voter registration*
6 *that may exist.*

7 14324. *For purposes of this article, the office of the elections*
8 *official may include satellite locations, as long as the requirements*
9 *of subdivision (b) of Section 3018 are satisfied.*

10 14325. *The Secretary of State shall, by regulation, adopt*
11 *procedures for determining the documents or other materials that*
12 *constitute proof of current residence for purposes of voting under*
13 *this article.*

14 SEC. 3. *Sections 1 and 2 of this act shall become operative on*
15 *January 1, 2012.*

16 SEC. 4. *If the Commission on State Mandates determines that*
17 *this act contains costs mandated by the state, reimbursement to*
18 *local agencies and school districts for those costs shall be made*
19 *pursuant to Part 7 (commencing with Section 17500) of Division*
20 *4 of Title 2 of the Government Code.*

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23 **All matter omitted in this version of the bill**
24 **appears in the bill as amended in Senate,**
25 **July 1, 2009 (JR11)**
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